

the coastwise shipping "in a preferential position as regards other shipping. While it is unquestionably true that remission of tolls to the coastwise shipping would put such ships "in a preferential position as regards other shipping," it is contended that, having conceded the right of the United States to grant such subsidies as it may deem wise, the subsequent contention is not tenable.

No actual protest in connection with the railway provisions of the bill is submitted, the British Secretary contenting himself with declaring his assumption that such provisions are intended for application to American railways and railway-owned ships and not to those of foreign nations.

Affords Agreement Basis.

Summing up the protest, it may be said to impress those who have read it carefully as affording a basis for an agreement through diplomatic negotiations, this being due primarily to Great Britain's having receded from its former contention that "the proposal to exempt all American shipping from the payment of the tolls would, in the opinion of his majesty's government, involve an infraction of the treaty (Hay-Pauncefote), nor is there, in their opinion, any difference in charging tolls only to refund them and remitting tolls altogether."

As has been said, the question involved in the construction of the term "all nations" is, in the light of other facts, largely academic and affords a basis for some concession by the United States. The expressed understanding of Great Britain of the railway provision may afford some difficulty, although that is unquestionably intended primarily to apply to American railways and was adopted, as has been pointed out by the President, with a view to preventing utilization of the canal to perpetuate the monopoly of the transcontinental railways.

Sir Edward Grey suggests that if an

amicable understanding cannot be reached his government would be glad to submit the questions at issue to arbitration. It is equally true that President Taft would not for a moment hesitate to submit these questions to arbitration under such circumstances, so far as it lay in his power to do so. That step would, however, involve securing ratification by the Senate of the necessary compromise defining the scope of the arbitration, and it must be obvious to Great Britain's representative in Washington, as it is to others, that the chances of such ratification would be remote indeed.

Taft Anxious for Settlement.

It is, naturally, the desire of both President Taft and Ambassador Bryce to clear up all remaining differences between their respective governments before the expiration of their terms in Washington. A satisfactory settlement of this question would add glory to Mr. Bryce's diplomatic service, and he doubtless realizes, as well as does President Taft, the obstacles which would stand in the way of a satisfactory settlement once a new and a Democratic Secretary of State were in office.

President Taft is extremely anxious to clear up this troublesome question before March 4. In view of the disposition of those concerned in the immediate negotiations and of the entirely friendly tone of Sir Edward Grey's protest, therefore, the prediction of a friendly settlement by diplomatic methods seems warranted.

The British protest is in the form of a communication from Sir Edward Grey to the British Ambassador. It was read to Secretary Knox and a copy left with him by the ambassador in person, who called for the purpose at the residence of Mr. Knox at 6 o'clock this evening. He was attended by Mr. Mitchell-Innes, counselor of the embassy.

TOLL EXEMPTION UNJUST, SAYS SIR EDWARD GREY

No Guarantee That Vessels Paying Charges Would Not Be Bearing More Than Their Share, He Urges.

Washington, Dec. 9.—Sir Edward Grey begins Great Britain's formal note of protest against that section of the Panama Canal act which exempts American coastwise shipping from payment of tolls for passing through the Panama Canal with the statement that the President does not fully appreciate the British point of view and has misunderstood even the note of July 8.

The purpose of the United States in negotiating the Hay-Pauncefote treaty was to recover their freedom of action and obtain the right which they had surrendered in the Clayton-Bulwer treaty to construct the canal themselves. But this complete liberty of action was to be limited by the maintenance of the complete principle of equal treatment for both English and United States ships. The word "neutralization" in the preamble of the Hay-Pauncefote treaty is not confined to belligerent operations, but refers to the system of equal rights for which Article 8 provides.

Joint protection and equal treatment are the only matters alluded to, to which that neutralization must refer. "It certainly was not the intention of the United States government," says Sir Edward Grey, "that any responsibility for the protection of the canal should attach to them in the future. Neutralization, therefore, must refer to the system of equal rights."

The note then declares that the situation created by the substitution of the Hay-Pauncefote treaty for the Clayton-Bulwer treaty was identical with that resulting from the boundary waters treaty of 1896 between Great Britain and the United States, which in brief provided that the boundary waters should be free and open to commerce, "applying equally and without discrimination to the inhabitants, ships, vessels and boats of both countries . . . but all such rules and regulations and all tolls charged shall apply alike to the subjects or citizens of the high contracting parties, and they shall be placed on terms of equality in the use thereof."

American Protest Recalled.

It is also asserted that a similar, though more restricted, provision appeared in the treaty of Washington, and it is recalled "how strenuously the United States protested, as a violation of equal rights, against the system which Canada had introduced of a rebate of a large portion of the tolls on certain freights on the Welland Canal, and how in the face of that protest the system was abandoned."

Referring to the third article of the Hay-Pauncefote treaty, the note points out that the first of the Suez Canal rules, which the treaty adopts for the Panama Canal, is that the waterway shall be free and open to the vessels of commerce and war of all nations, observing the rules on terms of entire equality, so that there shall be no discrimination against any such nation.

It is said that the President's statement of the case is wholly at variance with the real provisions when he treats the words "all nations" as excluding the United States because it had constructed the canal on its own territory and thereby acquired an absolute right of ownership, including the right to allow its own commerce the use of the canal upon such terms as it saw fit. Sir Edward adds:

They (the British government) consider that by the Clayton-Bulwer treaty the United States had surrendered the right to construct the canal, and that by the Hay-Pauncefote treaty they recovered that right upon the footing that the canal should be opened to British and United States vessels upon terms of equal treatment. . . . If the rules set out in the Hay-Pauncefote treaty secure to Great Britain no more than most-favored-na-

tion treatment, the value of the consideration given for superseding the Clayton-Bulwer treaty is not apparent to his majesty's government. Nor is it easy to see in what way the principle of Article VIII of the Clayton-Bulwer treaty, which provides for equal treatment of British and United States ships, has been maintained.

Should Consider Whole Volume.

The next point made is that the exemption of American coastwise shipping from tolls would violate the undertaking that the tolls should be "just and equitable." Unless the whole volume of shipping passing through the canal is taken into account, there are no means of determining whether the tolls charged upon any particular vessel represent their fair proportion of the current expenditure properly chargeable against the canal.

There is no guarantee that the vessels upon which tolls are being levied are not being made to bear more than their fair share of the upkeep. Therefore, the British government is entitled "to demand, on behalf of British shipping, that all vessels passing through the canal, whatever their flag or character, shall be taken into account in fixing the amount of the tolls."

The British government does not read the section of the Panama Canal act prohibiting railroad-owned or trust-owned ships from using the canal as applying to or affecting British ships, but it said that if this view is mistaken "they must reserve their right to examine the matter further and to raise such contentions as may seem justified."

In conclusion, the British Foreign Secretary reiterates his government's assertion that the provisions of the canal act as to tolls conflict with the British treaty rights, and adds:

But they recognize that many persons of note in the United States whose opinions are entitled to great weight hold that the provisions of the act do not infringe the conventional obligations by which the United States is bound, and under these circumstances they desire to state their perfect readiness to submit the question to arbitration, if the government of the United States would prefer to take this course. A reference to arbitration would be rendered unnecessary if the government of the United States should be prepared to take such steps as would remove the objections to the act which his majesty's government have stated.

Finally, Sir Edward declares that it is with great reluctance that these objections have been raised; that they have been confined to the narrowest possible limits, had recognized in the fullest manner the right of the United States to control the canal and that the British government looked with confidence to the United States not to impair the safeguards granted to British shipping by treaty.

NEW CHINESE SYNDICATE

Combination Formed to Extend British Interests.

(By Cable to The Tribune.)

London, Dec. 10.—It was persistently rumored in the City yesterday that arrangements were being made to widen the basis of British interests in China. Briefly stated, the reports are to the effect that some four or five financial firms and banks are joining "with the Hong-Kong and Shanghai banking corporation in a syndicate likely to be concerned in financing China's requirements."

If the financial houses and banks mentioned as being concerned in the syndicate are really interested financially, it would mean, says "The Standard," that headed by the Hong-Kong and Shanghai Bank, with its unmatched knowledge of Chinese affairs, the finances of the new republic would be in the hands of one of the strongest financial groups ever formed in England.

D. A. R. MEETING THURSDAY.

The Manhattan Chapter of the Daughters of the American Revolution will hold a meeting at the home of Mrs. William Cunningham Story, regent, No. 36 Gramercy Park, Thursday afternoon. Mrs. Hugo Winter will read a paper and Wilbert E. Longfellow, general superintendent of the United States Volunteer Life Saving Corps, will address the chapter.

MAYOR DENIES LIBEL IN REPLY TO CURRAN

Sticks to Newsstand Graft Charges in Answer He Files in Court.

NAMES OTHER ALDERMEN

Declares His Letter on Which \$100,000 Suit Is Based Was Result of "Official Information" to City.

Mayor Gaynor took back not a word of the statement he made about Alderman Henry H. Curran, in the answer he filed yesterday in the Supreme Court to the suit which Curran has brought for \$100,000 damages for alleged libel. The Mayor, in his answer, which covers fifty-five printed pages, admits he wrote the letter that was made the basis of the suit by the chairman of the aldermanic committee investigating the Police Department, but denies that his statements were libellous. He denies the specific allegation in the complaint of Alderman Curran that the plaintiff is of "good name, fame and standing in the community." Mayor Gaynor also declares that his letter, which he says, according to the information and belief, was true, was based on official information that had been gathered in connection with the alleged grafting of certain persons in the granting of permits for newsstands. He mentions also the names of several aldermen and former aldermen who, he says, on "information and belief," were implicated in newsstand graft.

The letter of the Mayor on which the complaint was based said the method of the aldermen mentioned in signing applications for licenses for newsstands and other stands in the street was to refer the applicants to a go-between, who refused to deliver the license until money had been paid to him. The law requires the aldermen to deal personally with the applicants and deliver to them the licenses. Alderman Curran said this letter was written to intimidate him in the police investigation and meant to intimate that he was a "grafter."

In his answer Mayor Gaynor mentions, on "information and belief," the following aldermen and former aldermen: Joseph Schloss, Louis Wendell, Jr., John J. McCann, Frederick W. Richter, Norman Kenney, Herbert and Volkman. He mentions as "go-betweens" Albert J. Berwin, Charles Buckman, Abraham Wirtzberger, Dr. William Shapiro, Michael King, Halpin, Cruise, Bernhardt and Curtis. In some instances the Mayor did not mention the first names of the men whom he said were implicated in the license graft.

Reiterates Graft Charges.

The Mayor includes in his answer the correspondence he had with Controller Prendergast and the Board of Aldermen which set forth the complaints and charges of keepers of newsstands. He says that \$50, \$25 and \$50 were the common prices paid for licenses, and that there were seven thousand such stands. In many instances, the Mayor says, it was necessary for the applicants to join a certain political club, and in this connection he mentions the Tammany Club of the 11th Assembly District, where Senator Thomas J. McManus is the leader.

As to his source of information Mr. Gaynor says: "Such affidavits were in due course brought to the attention of the defendant by persons employed in and about the office of the Mayor of the City of New York and in the offices of the Bureau of Licenses and in the office of the Commissioner of Accounts, and that information was thus acquired by the defendant of the methods of the plaintiff, an alderman of the City of New York, in the matter of the licensing of newsstands; that the information thus acquired by him was reliable and trustworthy, and he believed the statements made by such persons to him to be truthful statements, and, relying thereon, he, the defendant, wrote the letter which in the complaint is alleged to be libellous."

The Mayor added that the information referred to was furnished by persons in high standing in their departments and by good citizens, including heads of organizations interested in the matter of licenses. He incorporates in his answer the letters received from several of these officials whom he mentions in his answer, including communications from E. J. Creel, chief examiner of the Finance Department, and Francis V. S. Oliver, Jr., formerly head of the Bureau of Licenses.

Mayor Gaynor calls attention to several alleged specific instances where Alderman Curran sent applicants for licenses to first see other persons. He alleges on "information and belief" that one Max Feinstein desired to open a stand at No. 117 West 21st street and applied to the plaintiff for consent and permission, and plaintiff, instead of acting on his application, referred him to one Harly.

Cites Specific Instances.

"That on information and belief one Kopel Schwartz applied to plaintiff for consent to a renewal of a license on a fruit stand in front of his place of business, No. 297 West 27th street, but that plaintiff, instead of acting on such application in person, directed Schwartz to see one Halprin.

"On information and belief one Samuel Gordon, or one Abraham Weiner, made application to the plaintiff for his consent for a license for a stand at No. 34 West 24th street; that plaintiff refused to consent, stating that one Harry Moskowitz was the only one who could get such consent; that thereupon said Gordon or said Weiner paid said Harry Moskowitz a further sum of money and thereafter received the consent upon his application; that thereafter the said Gordon, or said Weiner, paid Moskowitz a further sum of money, after which the plaintiff indorsed the consent upon the application for a stand at No. 51 West 23d street."

Mayor Gaynor sets up three separate defenses. He denies every allegation in the complaint of Alderman Curran except that he wrote the alleged libellous letter and that it was published in the regular course of his duties as Mayor; he justifies the contents of the letter because he says he regarded them as true, and sets up a partial defense in mitigation of damages "if there are any," and pleads all the facts set up in the second answer as a suitable defense.

The Mayor also charges Alderman Curran with giving out for publication statements that were "very far from being truthful" in regard to their interview in the Mayor's office before the selection of the Aldermanic Committee to investigate police conditions. The statements which Mayor Gaynor attributes to the alderman are that he told the Mayor that the inves-

tigation was undertaken to embarrass him, which the Mayor says was false, as was the one attributed to him that the aldermen would stultify themselves if they undertook the investigation.

The Mayor says these statements were made to create an erroneous impression as to his attitude.

Mayor Gaynor asks that the action brought by Alderman Curran be dismissed and that the plaintiff be taxed with the costs.

Aldermen Deny Charges.

Alderman Louis Wendell, Jr., a Democrat, who represents the 11th District, speaking of the Mayor's mention of him, said:

"All that was thrashed out two years ago. The Mayor knows from his own investigation that there was nothing reflecting upon me when the charge was looked into. I think it is wrong for him to bring this up, but I do not contemplate bringing any suit against him. I have been re-elected since then and by a majority of 700 votes greater than I received before."

Alderman John McCann, a Democrat, representing the 12th District, said:

"If any one can give any proof to substantiate such a thing as the Mayor intimates, I will give \$50 to charity. The only thing that the Mayor could have heard of was a case where the same man held two separate newsstand licenses in my district, near Eighth avenue and 23d street. It is unlawful for one man to have two such stands, and I had one of his licenses revoked and gave it to an old man who needed the money. If that is a crime, then I am guilty."

The Mayor mentions a man named Herbst. Abram W. Herbst is the only alderman in the board of that name. He declared the Mayor had no ground whatever to connect his name with the newsstand irregularities.

"Maybe some of my political enemies have concocted a story," he added.

The Mayor uses the name of "Kenney" in his answer. There is a Francis P. Kenney in the Board of Aldermen. He is a Democrat from Brooklyn.

"I suppose the Mayor must refer to me," he said, "as far as I know I am the only man with a name like that who has been in the board for many years. But I certainly do not know what the Mayor has reference to, as there is nothing in my career to justify any charge of irregularity."

After the Mayor's answer had been made public Alderman Curran said:

"You can say that I am going to press my suit to trial as early as possible, I don't consider his answer as any reply at all, but I do not know that I shall move to have it stricken out."

Former Alderman Michael J. Volkman, one of those whom the Mayor mentions as having used "go-betweens" while collecting graft from newsstanders and boot-blacks, was tried and acquitted upon that charge in January, 1911. At that time David Barish, who had a newsstand at 8th street and Third avenue, charged Volkman with soliciting \$300 from him for a renewal of his license. Volkman declared that Barish "took out \$50 and said, 'Here's something for you.'"

Volkman said he refused the money. He also declared that "Eddie" Cruise (a member of Volkman's club, who made an affidavit against him) was frightened into signing the affidavit about his demanding \$300 for a newsstand license.

TO EJECT STANDARD OIL

This the Avowed Policy of the Kaiser's Government.

Berlin, Dec. 9.—The German government's petroleum bill was subjected to another session of vigorous and destructive criticism to-day in the Imperial parliament. It was then referred without opposition to a committee which will endeavor to evolve something acceptable to the majority of the House.

Not a single voice was raised to-day in defense of the bill in its present state. Most of the speakers were apparently convinced that the banking group behind the proposed company was quite as dangerous as the Standard Oil Company and would raise prices if the measure became law. Nevertheless, it is thought that there is a chance, in spite of the determined opposition of the Clerical Centre, the Poles and several of the minor factors, that a measure embodying the government's aim—namely, the election of the Standard Oil Company from Germany—will ultimately be adopted, and most probably in the form of a state monopoly utilizing methods of organization different from those now proposed.

Secretary Kuehn, in closing the debate, intimated that the government was willing to accept the views of parliament in the matter if only the basic idea of the measure were preserved.

ASTOR IN HONOR LEGION.

Son of Titanic Victim Succeeds His Father in Police Society.

William Vincent Astor was elected an honorary member of the Honor Legion of the Police Department at its annual meeting, held yesterday. He succeeds his father, John Jacob Astor, who died on the Titanic. The legion, which has a membership of about four hundred, will have its annual dinner at the Waldorf-Astoria on January 24.

DIX GIVES MASON \$5,000 JOB.

Albany, Dec. 9.—John A. Mason, secretary to Governor Dix, was appointed by the Governor to-day as Commissioner of Jurors for the new County of the Bronx at an annual salary of \$5,000. Mr. Mason is secretary of the Democratic State Committee. He is now abroad.

HEART, LIVER, APPENDIX ALL ON WRONG SIDE

Bellevue Surgeon Discovers Transposition of Organs at Autopsy.

PUZZLE TO THE DOCTORS

Man's Spleen on Right Side Instead of Left—Position of Large Vessels of Heart Reversed.

The remarkable case of the organs of a human body being transposed was discovered by Dr. C. W. Field, assistant professor of pathology in Bellevue Hospital and lineal descendant of Cyrus W. Field, layer of the first Atlantic cable, yesterday afternoon, when he performed an autopsy on the body of Michael Manning, thirty-two years old, a laborer, of No. 312 West 49th street, who died in that institution on Sunday.

The autopsy disclosed the heart on the right side, the large, or cardiac part, of the stomach on the right side, its normal position being below the heart; the appendix on the left side, the liver on the left side, the spleen on the right side and the lungs, which, when normally constructed, contain three lobes in the right and two in the left, having two lobes in each. The construction of the lungs, Dr. Field pointed out, was not unusual.

Realizing the anatomical and pathological importance of his discovery, Dr. Field summoned all the physicians of Bellevue Hospital and several from neighboring institutions. More than sixty members of the medical profession studied the case.

Dr. John McAllister, demonstrating professor in operative surgery in Bellevue Hospital, who has been associated with the institution for twenty years, declared that during that time no case of a similar nature had been brought to the attention of the surgeons and physicians of the hospital.

Regarding the transposition of the organs Dr. Field last night said:

"Aside from the phenomena presented by the general transposition of the organs, an anatomical anomaly in the relative positions of the large vessels of the heart was also found. The pulmonary artery, instead of crossing above the aorta, as is the normal construction, passed beneath the aorta. The reversal of the relationship of the two vessels in this case was due to the heart lying in the right side of the chest."

"All organs were structurally normal, but, in some cases, diseased conditions were found."

Dr. Field pointed out the difficulty of a clinical diagnosis in the event of appendicitis, a heart affection or gallstones that would result in the case of a person whose organs were transposed. If the X ray were not resorted to in such a case, he said, the diagnosing surgeons would be in a quandary.

Manning was taken to Bellevue Hospital late Saturday night. He was examined by the staff physicians. His case presented symptoms of pneumonia, but later contradictory symptoms were found. The case was a puzzling one. Manning rallied early Sunday morning, but later in the day suffered a relapse and died.

Dr. Otto Schultze, for fourteen years associated with the medical staff of Bellevue Hospital, who testified during the trial of Charles Becker and in the trial of Gibson, in Goshen, declared the case and the transposition of the organs one of the most remarkable that had come under his notice.

COLDEST DAY OF SEASON

Jack Frost Arrives and Keeps Folks Hustling.

Jack Frost came to town yesterday and stayed long enough to make New Yorkers realize they were really living in a winter month. From the balmy spring-like weather of Saturday Jack changed the climate yesterday to that of his kind. In many places ice was evident on the sidewalks—the first seen this year. Truck drivers, chauffeurs and others who are exposed to the weather were seen swinging their arms in an endeavor to keep warm. Instead of loitering in the street to discuss this, that or the other matter with an acquaintance, those on foot hustled along and kept going.

In the parks, where people are wont to sit and linger in the warm sun on mild days, there was an absence of the slow stroller, and all visitors were kept on the move. On the drives, those enjoying the comforts of automobiles or carriages were wrapped in heavy furs. They showed by

their exposed faces that Jack Frost had recently arrived.

It was the coldest day of the season. The thermometer at 7:15 o'clock in the morning registered 17 degrees above zero. As the day went on the mercury crept up to 29 degrees at 2 o'clock in the afternoon. This was its highest mark. The forecast for to-day promises warmer weather.

(By Telegram to The Tribune.)

Nyack, N. Y., Dec. 9.—With the thermometer at 29 degrees above zero, A. S. Rosborough, local contract agent of the New York Telephone Company, picked a rose in full bloom in his yard this morning.

CONFIRMED AS U. S. TREASURER.

Washington, Dec. 9.—The appointment of Carmel Thompson, President Taft's former secretary, as Treasurer of the United States, was unanimously confirmed by the Senate to-day.

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